IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1367 OF 2003
IN
SUIT NO.1332 OF 2003

Sugandha Manohar Koli & Ors. ...Plaintiffs
Vs.
M/s.Nightingales Co.Op.Hsg.Soc. Ltd. & Ors. ...Defendants

Ms.Yusnin Tavaria i/b. D.A.Barot for Plaintiffs
Mr.P.B.Shah for Defendant Nos.1,4 & 5
Mr.A.S.Rai for Defendant No.2

CORAM: SMT.R.S.DALVI,J.
DATED: 7TH JULY, 2005

P.C.

1. The Plaintiffs claim through one Maria who left behind two sons Mahadev and Balkrishna. Maria's brother one Ramchandra, is stated to have made some mutation entries in the Revenue records to claim the properties belonging to Maria as his own. The Plaintiffs have remedy against successors in title of the Ramchandra for the properties so transferred if the Plaintiffs prove at the trial that the entries were made surreptitiously as alleged by the Plaintiffs.

2. Ramchandra has sought to dispose of and sell the suit properties to Defendant No.2 where the Society of Defendant No.1 has come up. The Plaintiffs claim the relief of injunction against construction by Defendants 1 and 2 and also the mandatory injunction

for demolition of the constructed property. Plaintiffs also claim further injunctions against the induction by Defendants 1 and 2 and compensation mesne profits from them.

3. Defendants 1 and 2 have developed the suit plot of land under the agreement dated 19th May, 1988. They have taken the property for consideration. That consideration must be taken to be at the market value then prevailing. Defendants 1 and 2 have therefore acquired their rights to develop and construct. The Plaintiffs remedies are essentially against their cousins who are Defendants 3 to 13. The Plaintiffs will be entitled to a proportionate share in the consideration received under the said agreement by Defendants 3 to 13. The Plaintiffs cannot stop construction or development by Defendants 1 and 2 who are purchasers for value.

4. No order on the Notice of Motion.

5. No order as to costs.

(SMT.R.S.DALVI,J.)